

SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF LAKE

DRAFT LOCAL RULES EFFECTIVE JULY 1, 2009

NEW RULES

- Chapter 15 - Judicial Arbitration
- Chapter 16 - Teleconferencing Hearings and Conferences
- Chapter 17 - Civil Jury Trials

MODIFIED RULES

- Chapter 3 - 3.5 Presentation of Ex Parte Applications

NEW RULES

CHAPTER 15 JUDICIAL ARBITRATION

15.1 Scope, Purpose and Authority (new 7/1/2009)

The provisions of the rules contained within this chapter apply to all civil actions except those exempt from arbitration by California Rules of Court §3.811(b). They are adopted pursuant to the authority contained in Government Code §68070 and Civil Code of Procedures §1141.11(b) and are aimed implementing provisions provided by Code of Civil Procedure §§1141.10-1141.31 and California Rules of Court §§3.810-3.830.

15.2 Mandatory Submission to Arbitration (new 7/1/2009)

Pursuant to the Code of Civil Code of Procedure §1141.11(b) all civil actions in which the amount in controversy will not exceed \$50,000, for each plaintiff, shall be referred to arbitration unless parties agree to mediation in the alternative.

15.3 Arbitration Administrator and Administrative Committee (new 7/1/2009)

The arbitration administrator shall be that member of the court staff designated by the presiding judge, from time to time, to perform the functions of arbitration administrator. The function of an arbitration committee shall be performed by, and the powers of such committee shall be exercised by, the presiding judge.

15.4 Arbitration Conference (new 7/1/2009)

When a case has been placed on the civil active list, unless the pleadings disclose that the only relief sought by every party is equitable relief, the arbitration administrator will calendar the case for a conference, pursuant to Code of Civil Procedure §1141.16, to determine the amount in controversy and to consider submission of the case to arbitration and placement of the case on

the arbitration hearing list. If the pleadings disclose that the only relief sought by every party is equitable relief, no conference will be conducted.

Not later than ten (10) days prior to the date set for the conference, each party will serve on each other party, and file with the clerk, an arbitration conference statement containing information relevant to:

1. The nature of the case; and
2. The amount in controversy, including an itemized statement of the amount of any damages claimed; and
3. The insubstantiality or frivolousness of any prayer for equitable relief; and
4. Any information bearing on the question whether arbitration would not reduce the probable time and expense necessary to resolve the litigation.

15.5 Arbitration Hearing List (new 7/1/2009)

The arbitration administrator will maintain an arbitration hearing list which will include all actions ordered placed thereon pursuant to Code of Civil Procedure §1141.16(a), and California Rule of Court §3.811(a).

15.6 Conduct of Arbitration Hearing (new 7/1/2009)

Arbitration hearings will be conducted in accordance with California Rules of Court §3.823 and §3.824. Not less than 5 days prior to the date first set for the hearing, counsel for each party will deliver copies of that party's pleadings (complaint, cross-complaint and answer) to the arbitrator and will deliver to the arbitrator and counsel for each other party an arbitration brief containing a concise statement of the facts and the legal and factual contentions of the parties, which, in the case of a plaintiff or cross-complainant, will include a statement of damages or other relief sought in the arbitration and, where appropriate, a detailed statement of the amount and elements of any claimed financial harm or loss which is the basis for the claim.

CHAPTER 16 TELECONFERENCING HEARINGS AND CONFERENCES (new 7/1/2009)

A. Subject to the provisions of this rule, parties may appear by telephone in law and motion, case management, status conferences, and probate hearings, except in those matters in which:

1. A party gives notice of an intent to present oral or documentary evidence at the hearing; or
2. The court orders the personal appearance of counsel.

In addition, counsel may appear by telephone in any other hearing or conference for which the notice issued by the court setting such hearing or conference directs that appearance may be by telephone.

B. All persons appearing telephonically must use the telephone services designated by the court.

C. Each party or counsel wishing to appear by telephone shall be available on the date of the hearing at the designated time and shall be responsible for contacting the teleconferencing service. Such party or counsel shall remain available until completion of the hearing of the matter. Failure to be or remain immediately available as required by these rules will be deemed a non-appearance at the hearing and may result in sanctions.

D. For good cause shown, the court may deny a request for telephone appearance, or require that a party or counsel be personally present.

CHAPTER 17 CIVIL JURY TRIALS

17.1 Request for Jury Trial in Equity Cases (new 7/1/2009)

In civil cases in which all causes of action are equitable in nature, a trial by jury on any specific factual issue is available only upon compliance with CCP §631. In such cases the demand for jury shall be in writing and shall specify the factual issues to be determined by the jury.

17.2 Attorney Testifying May Not Argue the Case (new 7/1/2009)

An attorney testifying on the merits of the case as a witness on behalf of that attorney's client shall not argue the case to the jury, unless by permission of court.

CHAPTER 3 GENERAL

3.10 Court Reporting Services (new 7/1/2009)

- A. A court reporter will be available for reporting all proceedings in the court except traffic, small claims, misdemeanor, limited civil, and unlawful detainer matters.
- B. In accordance with Government Code §68086 and California Rules of Court §2.956 when a party requests a court reporter and the reporter is not required by local rule §3.10(A) or by statute to report the court proceedings, such party shall provide and pay for a certified court reporter approved by the court.

3.11 Interpreters (new 7/1/2009)

Interpreters are provided by the court in actions where the court is required to do so by law. In such cases, counsel shall notify the court that an interpreter is required five (5) days before the hearing. In all other cases, parties shall arrange their own interpreters.

MODIFIED RULES

3.5 Presentation of Ex Parte Applications to Presiding Judge (eff. 6/30/91, amd. 7/1/2009)

- B. For ex parte matters that are contested that otherwise require appearances, hearings will be conducted at 3:30 p.m. daily, in the courtroom or chambers of department one as the court deems appropriate. Such matters must be scheduled for hearing by the department one judicial assistant, as early as possible before the requested hearing but not later than 9 a.m. of the preceding court day unless good cause is shown. The applicant is responsible for contacting the judicial assistant to schedule the hearing, and for giving notice thereof.